

To: CN=Steven Neugeboren/OU=DC/O=USEPA/C=US@EPA[]

Cc: []

Bcc: CN=Robert Ward/OU=R8/O=USEPA/C=US[]

From: CN=Mary Grady/OU=DC/O=USEPA/C=US

Sent: Fri 12/7/2012 2:31:48 PM

Subject: Water Law News for December 7, 2012

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WATER LAW NEWS DECEMBER 7, 2012

HIGHLIGHTS

White House, EPA Prepare for Sequestration; 8.2 Percent Cut Possible

The White House requests federal agencies, including EPA, to provide additional information and analysis on agency spending in advance of automatic spending cuts scheduled to go into effect Jan. 2. R. Steven Brown, executive director for the Environmental Council of the States, tells BNA that EPA is planning for an across-the-board 8.2 percent spending cut to all of its discretionary accounts if sequestration goes into effect. ... More »

Study Shows Progress on Nitrogen in Bay, but Violations Persist

Wastewater treatment and industrial plant discharges of nitrogen in the Chesapeake Bay watershed declined overall between 2010 and 2011, but dozens of the 334 significant facilities in the watershed violated permit limits or failed to report nitrogen discharges, according to an Environmental Integrity Project report. The report cites "impressive gains in reducing nitrogen pollution of the Chesapeake Bay by municipal and industrial sources," but says further reductions will require tougher state permitting and improved oversight. ... More »

Industry, Advocacy Coalition Releases Guide to Safer Chemicals

A guide to help companies purchase safer chemicals is released by a coalition of businesses and advocacy groups known as BizNGO. The guide is designed to help businesses working to replace chemicals of concern with safer alternatives. The document is designed to provide companies with strategies and resources that can help them implement the principles for safer chemicals that BizNGO released in 2011. ... More »

ALSO IN THE NEWS

CLIMATE CHANGE: Local governments are adapting to climate change impacts by improving stormwater systems, planting trees to lower temperatures, and undertaking other efforts, local government representatives say. ... More »

ENERGY: State Department may issue Keystone XL environmental review 'soon' A-4

WATER RESOURCES: Businesses should prepare for an uncertain water future by scrutinizing water use along their entire global value chain, the consulting firm Deloitte says. ... More »

EPA Faces New Suits Over Landmark Nutrient Limits For Florida Waters

EPA is likely to face a new round of litigation over its recent landmark decisions setting federal and state limits on nutrients in Florida's waters, with environmentalists threatening to sue over provisions they say significantly undermine efforts to strictly regulate the pollutants, while industry groups are expected to sue over measures they say are too strict.

Judges Grapple With Industry's Right To Intervene In EPA Deadline Suits

A panel of appellate judges is grappling with whether industry groups have a right to intervene in environmentalists' litigation seeking to force EPA to review its power plant effluent limitation guidelines (ELG) in a potentially precedent-setting case that could determine whether House Republicans push legislation to ease third parties' intervention rights.

Latest Blogs

Industry Backs EPA's Water Trading Policy

A coalition of wastewater industry groups is seeking to back EPA in a lawsuit challenging the agency's nutrient pollution trading program for the Chesapeake Bay, . . .

CLIMATE:

'We are not going to abandon the waterfront' -- Bloomberg

Colin Sullivan, E&E reporter

Published: Thursday, December 6, 2012

NEW YORK -- Mayor Michael Bloomberg today vowed to rebuild the city's waterfront during an event in which he was praised by former Vice President Al Gore for drawing attention to climate change in the wake of Superstorm Sandy.

The mayor and media magnate said residents of low-lying areas hit hardest by Sandy should not have to leave their homes for good, though he did announce new building and planning codes for neighborhoods thought to be most in jeopardy.

"We are not going to abandon the waterfront," he said during a keynote at the tri-state Regional Plan Association. "But we can't just rebuild what was there and hope for the best. ... We have to build smarter."

In that vein, Bloomberg (I) pledged to look at expanding evacuation zones, most of which were flooded well beyond their city-drawn borders during the storm. He also won a commitment from the investor-owned utility Consolidated Edison to spend \$250 million of its own funds to prepare its system, much of it underground, for a Category 2 hurricane.

The event was co-sponsored by the League of Conservation Voters and featured an appearance by Gore, who praised Bloomberg while criticizing the federal government over inaction on greenhouse gas emissions.

"What will it take for the national government to wake up as this mayor has been telling us to do?" Gore said.

Bloomberg added that he has directed city officials to examine how best to react to Sandy in building natural and man-made defenses like berms, levees and sand dunes. Still, as he has before, the mayor expressed a lack of enthusiasm for multibillion-dollar ideas like floodgates or sea walls in key coastal corridors.

Bloomberg has made no secret before that he regards such projects as a waste of money. He reiterated that view today, suggesting it would be impossible to stop the kinds of high tides brought by a storm like Sandy.

"However, there may be some coastline protections that we can build that will mitigate the impact of storm surge with berms, and dunes, to jetties and levees," he said, in a speech that was broadcast by NY1, a local television news station.

That position appears to run counter to views taken by leading contenders for Bloomberg's job. With a mayoral election on the horizon next fall, City Council Speaker Christine Quinn (D) recently said she would support spending as much as \$20 billion on a range of options that could include the kinds of "enormous steel gates" that protect London from tides that move up the River Thames.

Quinn has also mentioned construction of bulkheads, floodgates, sand dunes, wetlands and embankments to help shield the city from the sort of unprecedented storm surge brought to the region by Sandy. As part of that plan, the Bloomberg administration has accelerated studies to analyze the risks facing the city (E&ENews PM, Nov. 14).

Bloomberg added that the Economic Development Corporation has agreed to study whether New York City and the surrounding region could sustain a Category 2 hurricane.

WATER POLLUTION:

EPA backs plan to ban sewage dumps in Lake Erie

Colin Sullivan, E&E reporter

Published: Thursday, December 6, 2012

NEW YORK -- U.S. EPA today tentatively got behind an Empire State plan to ban most sewage dumping in Lake Erie.

Officials from the agency's Northeast region examined a proposal by the New York Department of Environmental Conservation to implement a "no-discharge zone" in the lake and said they have determined the 593-mile zone can go forward as planned.

The tentative finding was published in the Federal Register and is subject to public comment.

EPA said plenty of facilities exist around Lake Erie to help boats adapt to the no-sewage directive along 84 miles of coastline that make up the New York side of the waterway.

The no-discharge zone means boats would be banned from discharging sewage into the water. Boaters would instead dispose of their sewage at designated pump-out stations.

The DEC proposal came out of a joint EPA-New York initiative to clean up the state's major waterways.

Public comment on the EPA assessment lasts until Jan. 6, 2013.

[Click here for more on no-discharge zones in EPA's Region 2.](#)

URANIUM:

Wyo., enviros at odds over new mine, sage grouse protections

Manuel Quinones, E&E reporter

Published: Thursday, December 6, 2012

The state of Wyoming is intervening in federal litigation that could become a key case in the fight between mining companies and conservationists over sage grouse protections.

At issue is a lawsuit filed by the Laramie-based Biodiversity Conservation Alliance and the Western Mining Action Project last month challenging Bureau of Land Management approval of Ur-Energy Inc.'s Lost Creek uranium mining project in Sweetwater County, Wyo.

Wyoming Attorney General Greg Phillips (D), at the urging of Gov. Matt Mead (R), filed papers this week to advocate for the project, which also needed state permits.

"Wyoming has put a lot of resources into making sure this mine operates in a safe and responsible manner," Mead said in a statement yesterday. "This project provides energy for the nation, jobs for Wyoming and revenue to local, state and federal governments."

The Lost Creek mine, which includes a portion of state land, will create 160 jobs and generate more than \$19 million in severance taxes, Mead said in a news release. The company broke ground in October.

Ur-Energy CEO Wayne Heili said, "Thanks to the advanced preparation of the Ur-Energy team, we have been able to initiate construction without delay following receipt of our final regulatory approval."

The groups filed their lawsuit last month, hoping to halt construction. They say BLM failed to take the required "hard look" at wildlife impacts and potential pollution.

The project is a so-called in-situ recovery or in-situ leach site. The process generally involves pumping water, oxygen and sodium bicarbonate to free uranium underground and then sucking it to the surface.

"In the case of Lost Creek, [BLM] has approved a project inside a sage grouse core area that violates the most important protections that are supposed to be applied there," said Erik Molvar, biologist and head of the Biodiversity Conservation Alliance. The groups say regulators approved too many wells and too much road construction for Lost Creek, which will jeopardize sage grouse habitats.

"This is the first major test to see whether the core area protections that have been drawn up in state and federal policies will have any on-the-ground benefit for the sage grouse," Molvar said.

Separately, Ur-Energy said BLM had accepted a request to review its record of decision but refused to block construction. A preliminary injunction motion against the project is pending in U.S. District Court in Wyoming.

Industry groups have complained about the legality of federal sage grouse protection plans (Greenwire, March 26). And Mead believes the mine complies with the state's Greater Sage-Grouse Core Area Protection Executive Order.

"Work on permitting this project started over five years ago and I believe state agencies and Ur-Energy have done sound work to protect Wyoming's water and wildlife," Mead said. "This includes mitigating impacts to sage-grouse."

Other projects

Uranium prices have remained sluggish for some time, currently standing at around \$42 per pound, according to Ux Consulting Co. The market situation even prompted mining giant BHP Billiton Ltd. to reduce focus on uranium extraction.

Still, producers in the United States are predicting growth in the market. Several other uranium mining projects are moving forward and prompting environmental concerns.

Uranium Energy Corp. announced yesterday that it had received all necessary permits for its Goliad in-situ recovery project in south Texas, including approvals from the Texas Commission on Environmental Quality and U.S. EPA.

The Nuclear Regulatory Commission last month issued a draft environmental impact statement for Powertech Uranium Corp.'s Dewey-Burdock project in South Dakota. NRC is also considering a license for Strata Energy Inc.'s Ross in-situ mine project in Crook County, Wyo.

BLM, also last month, released a draft environmental impact statement for Cameco Corp.'s Gas Hills in-situ project in Wyoming's Fremont and Natrona counties.

And in Virginia, state lawmakers are poised to debate legislation to lift a uranium mining ban with the backing of groups like the Heritage Foundation and the Heartland Institute. State Sen. John Watkins (R) has already announced his intention to push for consideration.

KEYSTONE XL:

Enviros blast pipeline companies ahead of Obama's decision

Nick Juliano, E&E reporters

Published: Thursday, December 6, 2012

This story was updated at 3:18 p.m. EST.

As pressure mounts from both sides ahead of President Obama's crucial decision on whether to approve a controversial international oil pipeline, activists are taking direct aim at the two largest pipeline companies in Canada.

A new report released today by the National Wildlife Federation accuses TransCanada Corp. -- which is behind the proposed Alberta-to-Texas Keystone XL pipeline -- of abusing eminent domain powers, not properly consulting with American Indian tribes and obscuring its safety record. The report also takes aim at Enbridge Inc., which operated the pipeline that burst in Kalamazoo, Mich., in 2010 and has a variety of other lines transmitting oil from Alberta's oil sands.

The report comes as NWF and other groups continue to urge Obama to block construction of the Keystone pipeline, which they

say would devastate the climate because of high greenhouse gas emissions generated through extraction of the oil sands crude it would carry as well as local environmental concerns in Nebraska.

A TransCanada spokesman, Shawn Howard, said the report was little more than a rehash of the same arguments pipeline opponents have long been making, and he stressed that the company complies with all of its legal requirements when dealing with landowners and others affected by a pipeline.

"This isn't a report. This is basically a brochure that has a series of stories in it that this same group of activists and lawyers put out," Howard said. "It's about their desire to end consumption of fossil fuels; it's got nothing to do with our pipeline."

Obama is expected to decide whether to approve the pipeline around the end of March 2013 -- a decision that environmentalists and industry both say will provide insight into his plans for a second term.

"Clearly Keystone doesn't fit in with creating a legacy on climate," said Joe Mendelson, NWF's director of climate and energy policy.

MINING:

N.M. lawmakers press for cleanup legislation

Manuel Quinones, E&E reporter

Published: Thursday, December 6, 2012

New Mexico Reps. Ben Ray Luján (D) and Steve Pearce (R) are pushing House leaders to bring up legislation aimed at helping hardrock mining states clean up their abandoned mines.

The bill, S. 897, would free coal reclamation dollars to be used for noncoal cleanups. It passed the Senate last year by unanimous consent and the House Natural Resources Committee earlier this year.

But action has stalled since then. Luján and Pearce say the measure is essential to address the dirty legacy of past uranium mining in their state.

That legacy, they wrote in a letter to House leaders, "has negatively impacted public health, public safety, and environmental health for generations of New Mexicans, especially those in minority and tribal communities."

The lawmakers added, "This important bill will provide New Mexico with a vital opportunity to tap into critical existing funding to clean up abandoned uranium mines at no additional cost to the federal government."

Sources familiar with the negotiations had previously expressed skepticism about the bill's passage because of spending concerns. But Pearce and Luján wrote that the Congressional Budget Office "found that this bill would have 'no significant impact on direct spending' and is budget neutral."

Heads of the Interstate Mining Compact Commission and the National Association of Abandoned Mine Land Programs, in a letter this week, also urged House Speaker John Boehner (R-Ohio) to allow a vote. They noted that, apart from its hardrock mine provisions, the bill also would give coal states more leeway in spending reclamation dollars for acid mine drainage cleanups. But environmental advocates have expressed concerns about spending coal reclamation dollars, which come from an industry fee, on hardrock mines rather than the pending cleanups from old coal mines.

And the Obama administration would rather reorganize the way coal reclamation dollars are spent and enact a new fee for hardrock mine cleanups.

WATER POLLUTION:

Texan man gets prison term for illegal wastewater discharges

Lawrence Hurley, E&E reporter

Published: Thursday, December 6, 2012

A federal judge has sentenced a Texas man to five years in prison after he was convicted of discharging untreated wastewater into a river.

U.S. District Judge Tom Stagg of the Western District of Louisiana also handed John Tuma, of Centerville, Texas, a \$100,000 fine at the sentencing yesterday, the Justice Department said in a statement.

Tuma was the general manager and former owner of Arkla Disposal Services Inc. in Shreveport, La.

Prosecutors said he violated the Clean Water Act by discharging wastewater into the Red River and the Shreveport sewage system and by obstructing a U.S. EPA inspection.

GULF SPILL:

Another judge steps down from Deepwater Horizon criminal case

Published: Thursday, December 6, 2012

A second federal judge has recused himself from hearing a case involving two BP PLC well site leaders facing charges of manslaughter in the deaths of 11 workers in the 2010 Deepwater Horizon incident in the Gulf of Mexico.

In a brief order, U.S. District Judge Ivan Lemelle did not specify his reason for stepping down from the case. In the past, he has said his wife owned stock in a BP partner, Halliburton Co., and that he offered the attorneys an opportunity to request he be disqualified from the case. In the order, he said not all parties waived that option.

U.S. District Judge Stanwood Duval will pick up the case against Robert Kaluza and Donald Vidrine.

Judge Nannette Jolivet Brown, who held the case before Lemelle, had also recused herself because of her prior work as a city

attorney for New Orleans on civil litigation related to the BP spill.

Trials for the two accused workers are set for January and February 2013 (Harry Weber, Fuel Fix, Dec. 5). -- HP

ClimateWire -- Fri., December 7, 2012 -- Read the full edition

1. WILDFIRES: For much of U.S., fire hazard lingers as drought persists

An unusually late fire season may bring coal to more than a few Christmases this year. Ongoing drought conditions across much of the West, Midwest and South have left ample fuel for ignition, keeping firefighters on edge and raising alerts in a number of states. The year appears poised to claim third place in the annals of worst fire seasons on record, following burns totaling 9.8 million acres in 2006 and 9.3 million acres in 2007.

2. CARBON CAPTURE: Fires, urbanization to redraw carbon map of West

As fires become more frequent and less controllable, they will impair the West's ability to absorb carbon and slow climate change, concludes a new analysis of the western United States' landscape.

TODAY'S STORIES

3. ARCTIC: Soot from burning tundra may be speeding up Greenland's ice melt

4. SCIENCE: Scholars duel over the entry of a man-made era

5. MARKETS: Calif. overstated demand for its inaugural cap-and-trade auction

6. SCIENCE: Researchers worry that Obama admin's travel restrictions may curb discoveries

7. NEGOTIATIONS: After an all-nighter, Doha talks veer toward an uncertain end

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11. MEDIA: Why TV weathercasters deny climate change

12. CAP AND TRADE: NASA's Hansen criticizes Calif. emissions-reduction system

13. BUSINESS: Climate change aid going to corporations, environmental organization says

EnergyWire -- Fri., December 7, 2012 -- Read the full edition

1. LNG: Export 'winners' go beyond U.S. borders

Natural gas analysts responded positively yesterday to the Department of Energy's release of a report that underscored the economic benefits of exporting liquefied natural gas, highlighting some of the broad swath of export, production, manufacturing and transport companies poised to benefit from an expanded industry.

2. LOBBYING: Oil and gas industry needs to sell itself better -- advocates

LONG BEACH, CALIF. -- Oil and gas companies must launch an aggressive public relations campaign to counteract the efforts of groups opposing exploration, an industry lobbyist argued this week.

THIS MORNING'S STORIES

3. OIL SHALE: Colo. county once again at odds with BLM development plan

4. HYDRAULIC FRACTURING: Pavillion driller blasts EPA contamination findings

5. ADVOCACY: 100 groups band together to ban fracking and drilling

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